

PLANNING COMMISSION MINUTES

July 9, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter.

Planning Services Manager Hal Bergsma, Associate Planner Suzanne Carey, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Planning Services Manager Bergsma reported that the final order on acknowledgement of the Metro amendments to the Urban Growth Boundary (UGB) had been signed, effective Monday, July 7, 2003, observing that as a result of this action those areas added in December 2002 are now included within the Regional UGB. He explained that a Concept Plan must be developed for those areas the City of Beaverton had planning responsibility for, including the Bethany area and areas on Cooper Mountain, within two years of this final order, and pointed out that this could potentially create a great deal of work for anyone who might be involved in this effort.

1 **OLD BUSINESS:**

2
3 Chairman Barnard opened the Public Hearing and read the format for
4 Public Hearings. There were no disqualifications of the Planning Com-
5 mission members. No one in the audience challenged the right of any
6 Commissioner to hear any of the agenda items, to participate in the
7 hearing or requested that the hearing be postponed to a later date. He
8 asked if there were any ex parte contact, conflict of interest or disquali-
9 fications in any of the hearings on the agenda. There was no response.

10
11 **CONTINUANCES:**

12
13 **A. TA 2003-0002/CPA 2003-0005 -- DOWNTOWN REGIONAL CENTER**
14 **MODIFICATIONS**

15 The intent of the proposed Comprehensive Plan and Development
16 Code Text Amendments is implementation of the Redevelopment Plan
17 for the 114th Avenue study area of the Downtown Beaverton Regional
18 Center. This planning process was initiated through a State
19 Transportation and Growth Management (TGM) grant with objectives
20 to increase density, improve access, establish mixed land use patterns,
21 improve pedestrian and bicycle facilities, and establish alignment for a
22 new north/south street through the area. The study area is within the
23 Regional Center – East District: RC-E, and the proposed Development
24 Code Text Amendment addresses necessary changes to the RC-E
25 zoning district, the Regional Center Site Development requirements,
26 and the Regional Center Supplementary Regulations, as well as
27 assigning the Major Pedestrian Route designation to certain streets in
28 the Downtown Beaverton Regional Center. The RC-E zoning district
29 extends beyond the study area, and the proposed Text Amendment
30 application intends to implement redevelopment consistent with the
31 114th Avenue vision without adding a hardship for existing uses
32 outside of the study area. The Comprehensive Plan Amendment
33 addresses proposed changes to the Transportation Element and the
34 Downtown Regional Center Community Plan.

35
36 Mr. Bergsma introduced Associate Planner Suzanne Carey and Patrick
37 Sweeney, consultant representing *Parsons Brinkerhoff*, and discussed
38 a Staff Memorandum that had been distributed, dated July 2, 2003,
39 addressing three issues, as follows:

- 40
41 1. Staff Recommendation for Continuance of the Hearing on CPA
42 2003-0005 and TA 2003-0002 (114TH Avenue Area
43 Redevelopment Plan.
44 2. Initial Issues Response.

3. Additional Written Testimony from Edward J. Sullivan, representing the Holstein Properties, and Wallace Preble, representing *Carr Auto Group*.

Mr. Bergsma mentioned two additional Staff Memorandums, as follows:

1. Addendum to Staff Report for TA 2003-0002 Downtown Regional Center Modification re: Compliance with the Statewide Planning Goals and the Transportation Planning Rule, dated July 9, 2003; and
2. CPA 2003-0005 and TA 2003-0002:
 - a. Additional Written Testimony; and
 - i. Scott M. McKinzie, *Beaverton Auto Upholstery Inc.*, dated July 2, 2003;
 - ii. Robert Zukin, dated July 3, 2003;
 - iii. John C. Pinkstaff, *Ramis Crew Corrigan & Bachrach LLP*, dated July 8, 2003;
 - iv. Don Kaster and Marilyn Kaster Herrold, dated July 8, 2003;
 - b. Additional Response to Issues.

Mr. Bergsma also referenced an e-mail from Mark Whitlow, representing *Fred Meyer Stores*, dated July 9, 2003, and a letter from Henry Kane, dated July 9, 2003.

Mr. Bergsma briefly summarized some of the points made in the Memorandums dated July 2, 2003 and July 9, 2003, in response to some of the issues that had been raised. He pointed out that at the meeting of June 18, 2003, Commissioner Maks had requested a response with regard to four issues, as follows:

1. The adequacy of the Public Hearing notice;
2. The adequacy of Statewide Planning Goal Findings;
3. Findings addressing the State Transportation Planning Rule; and
4. Response to proposed changes to Development Code Section 20.20.95.B, as suggested by Mr. Sullivan, in an effort to address issues relating to non-conforming or pre-existing uses.

Referring to the Memorandum of July 2, 2003, Mr. Bergsma pointed out that this document responded to the issue of public notice, in the form of a communication from Assistant City Attorney Ted Naemura,

1 who has indicated that there is no problem with the notification that
2 has been provided. He discussed the issue regarding Mr. Sullivan's
3 proposed amendments to the Development Code, observing that staff
4 had attached to that Memorandum several proposed changes to the
5 Regional Center-East (RC-E) district, noting that he has had discus-
6 sions with Mr. Sullivan and Mr. Pinkstaff, both of whom had agreed
7 that staff is headed in the right direction with regard to this issue. He
8 expressed his opinion that an appropriate alternative approach is to
9 recognize existing uses on their existing sites as permitted uses, add-
10 ing that this may be workable and that this option would be explored.

11
12 Mr. Bergsma mentioned the Memorandum dated July 9, 2003, which
13 addresses the Statewide Planning Goals and the Transportation
14 Planning Rule. He pointed out that after reviewing State statutes and
15 receiving advice from Mr. Naemura and Mr. Sheiderich, staff had
16 included that it is necessary at this time to address the goals for the
17 Text Amendment. He explained that the applicable Text Amendment
18 criteria do not include compliance with the Statewide Planning Goals,
19 adding that the assumption is that compliance with the Comprehen-
20 sive Plan is basically addressing these goals. He pointed out that the
21 problem involves a new Comprehensive Plan that became effective in
22 2002, observing that this document is still under periodic review by the
23 Department of Land, Conservation and Development (DLCD) and has
24 not yet been totally acknowledged as complying with the Goals.

25
26 Mr. Bergsma discussed an attached Memorandum from Senior Planner
27 Barbara Fryer, dated July 9, 2003, addressing the transportation
28 planning rule, including proposed changes to the Text Amendment and
29 the Comprehensive Plan. Referring to the other Memorandum dated
30 July 9, 2003, he discussed the responses to the following issues:

- 31
- 32 • The Impact of Changes to the Purpose Statement of Regional
 - 33 Center East (RC-E) Zoning District.
 - 34 • A Redevelopment Plan for the 114th Area Should Not Be
 - 35 Adopted Unless Funds Are Available for Implementation.
 - 36 • Disagreement About the Long Term Vision for Downtown
 - 37 Regional Center.
 - 38 • Impacts of Redevelopment on Existing Businesses and Property
 - 39 Owners.
 - 40 • Costs of Redevelopment Versus Potential Benefits.
- 41

42 Mr. Bergsma described Mr. Kane's concerns with regard to certain
43 issues, including the cost of redevelopment and expenditure of City

1 Funds. Concluding, he recommended that the hearing be continued to
2 the meeting of September 24, 2003.

3
4 Referring to the July 9, 2003 Memorandum with regard to responses,
5 Commissioner Maks stated that he agrees with Mr. Whitlow and dis-
6 agrees with staff regarding the influence of a zoning district's purpose
7 statement in decisions on adjustment applications, noting that when
8 the criteria gets squishy with regard to issues such as character and
9 surrounding area, there is a tendency to back up to the purpose
10 statement to determine the intention of the criteria. He pointed out
11 that he has been informed by several attorneys that because it does not
12 involve the definitive criteria, the purpose statement can not be
13 utilized with regard to land use action at all. He questioned whether
14 the move to make certain uses permitted would make the argument
15 with regard to the purpose statement a moot point.

16
17 Mr. Bergsma pointed out that Mr. Whitlow is concerned with
18 Adjustment applications, observing that the allowances for a Major
19 Adjustment are fairly significant. He noted that Mr. Whitlow had
20 suggested the possibility of changing the purpose statement for only
21 the 114th Avenue area, and creating a sort of a sub-zoning district,
22 adding that in staff's opinion, this would only serve to make the
23 Development Code more complex.

24
25 Commissioner Bliss noted that while the current purpose statement
26 mentions supporting existing businesses, as opposed to the proposed
27 revision to accommodating existing businesses, it is his opinion that
28 with respect to *Webster's Unabridged Dictionary*, the City of Beaver-
29 ton is neither supporting nor accommodating existing businesses. He
30 expressed his opinion that there is some misrepresentation with regard
31 to the purpose statement, adding that the tape that he reviewed
32 provided no evidence of any support for this proposal and that he is not
33 aware of any minutes that had been prepared.

34
35 Mr. Bergsma responded that summaries had been prepared for all four
36 meetings of the Project Advisory Committee, which included property
37 owners in the area. The meeting summaries were provided to the
38 Planning Commission, along with other documents pertaining to the
39 project, prior to the June 4, 2003 Work Session with regard to the 114th
40 Avenue Redevelopment Plan..

41
42 Observing that he was on vacation and did not attend the meeting of
43 June 4, 2003, Commissioner Bliss requested copies of the documents
44 that had been provided at that meeting.

1 Mr. Bergsma expressed his opinion that existing businesses are being
2 accommodated to the extent that they are being allowed to remain at
3 their current sites. He pointed out that the existing regulations im-
4 pose limitations on the expansion of vehicle sales and display lots, add-
5 ing that they would not be allowed to expand without providing an en-
6 closed structure. He noted that this is also true of the existing single-
7 family homes and duplexes in the area, noting that while the existing
8 homes would be permitted to remain, more development that is incon-
9 sistent with the long-term goals for this area would not be allowed.

10
11 Observing that public testimony would be limited to three minutes,
12 Chairman Barnard pointed out that following this testimony, the
13 hearing would be continued to September 24, 2003.

14
15 **PUBLIC TESTIMONY:**

16
17 **ANDREW RAPP** declined to testify, noting that he intends to wait and
18 testify at the continued hearing on September 24, 2003.

19
20 **ED SULLIVAN** stated that he has found staff very responsive with
21 response to his concerns, expressing his opinion that the proposal is
22 heading in the right direction. He pointed out that the purpose
23 statement may or may not be utilized with regard to land use action,
24 depending upon what is stated within the Development Code.

25
26 **HENRY KANE** noted that he had submitted what he referred to as a
27 legal memorandum documenting what he has said, adding that this
28 proposal reduces property value and is considered an unlawful taking
29 of property. He pointed out that this action would provide property
30 owners with the right to sue the City of Beaverton for depriving them
31 of the use and value of their property. He explained that these
32 individuals would also have a claim for the abuse of discretion and
33 violation of the statute which does not allow the City to harm the
34 economy. Referring to the letter submitted by Mr. Zukin, he noted
35 that the purpose of this action is to reduce the value of the property,
36 allowing a developer to come in and pick up the property for a song.
37 Emphasizing that the City of Beaverton has no right to destroy private
38 property, he expressed his opinion that the Project Advisory
39 Committee was a joke, adding that they had been provided with what
40 he considers to be three poor options. Concluding, he emphasized that
41 the property owners are being victimized.

42
43 **JOHN PINKSTAFF**, representing *Carr Auto Group*, requested
44 consideration of the letter he had submitted, emphasizing that he

1 opposes this proposed legislation. Expressing his opinion that Mr.
2 Bergsma's revisions are a reasonable improvement, he noted that
3 clarification is still necessary, adding that he agrees with Mr.
4 Sullivan's comments with regard to the purpose statement.

5
6 Chairman Barnard expressed his appreciation of public testimony that
7 had been provided.

8
9 On question, no other member of the public testified with regard to
10 this proposal.

11
12 Mr. Bergsma emphasized that staff would welcome any additional
13 comments with regard to this proposal.

14
15 Assistant City Attorney Ted Naemura indicated that he had no
16 comments with regard to this proposal.

17
18 Commissioner Maks concurred with the statements made by
19 Chairman Barnard, suggesting that staff continue working with
20 affected parties. Observing that he still believes in a vision, he
21 expressed his opinion that every attempt should be made to
22 accommodate and support existing businesses.

23
24 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
25 a motion to **CONTINUE** TA 2003-0002 – Downtown Regional Center
26 Modifications Text Amendment to a date certain of September 24,
27 2003.

28
29 Motion **CARRIED**, unanimously.

30
31 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
32 a motion to **CONTINUE** CPA 2003-0005 – Downtown Regional Center
33 Modifications Text Amendment to a date certain of September 24,
34 2003.

35
36 Motion **CARRIED**, unanimously.

37
38 **MISCELLANEOUS BUSINESS:**

39
40 Commissioner Johansen expressed his opinion that dinner should be
41 provided at the Work Session on July 16, 2003.

42
43 The meeting adjourned at 7:52 p.m.